

JS-44 (Rev. 09/11)

CIVIL COVER SHEET

The JS-44 Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local court rules. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil case. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

Boris Nikolaevsky

DEFENDANTS

LA Fitness and LA Fitness International, LLC

(b) County of Residence of First Listed Plaintiff Montgomery County
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Orange County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Mark Yurovsky, Greg Promushkin, P.C., 9637 Bustleton Avenue,
Philadelphia, PA 19115

Attorneys (If Known)

Norman W. Briggs, Esquire, Briggs Law Office, LLC, 400 Market
Street, Suite 730, Philadelphia, PA 19106, 215-925-4632

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | |
|---|--|---|--|
| Citizen of This State | PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13950) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat. TV <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<div style="border: 1px solid black; border-radius: 50%; width: 100px; height: 100px; display: flex; align-items: center; justify-content: center; margin: 0 auto;"> 1 2012 </div>		

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Title 28, United States Code, Section 1441

Brief description of cause:

Court action is between citizens of different states, USDC has original jurisdiction by virtue of diversity

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

08/29/2012

SIGNATURE OF ATTORNEY OF RECORD

Norman W. Briggs, Esquire

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

PBT**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA****CASE MANAGEMENT TRACK DESIGNATION FORM**

BORIS NIKOLAEVSKY

v.

LA FITNESS, et al

CIVIL ACTION

NO. 12-5022

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

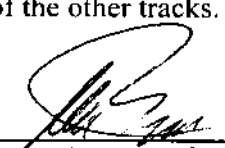
8/31/12
Date

NORMAN W. BRIGGS

Attorney-at-law

215-925-4632

215-925-1611


 Attorney for Defendants Fitness
 International, LLC, et al
 nbriggs@thebriggslaw.com

Telephone

FAX Number

E-Mail Address

AUG 31 2012

UNITED STATES DISTRICT COURT

12-CV-5022

PBT
 FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Boris Nikolaevsky, 237 Jacksonville Road, Apartment 83D, Hatboro, PA 19040

Address of Defendant: Fitness International, LLC, 3161 Michelson Blvd, Suite 600, Irvine, CA 92612

Place of Accident, Incident or Transaction: LA Fitness (Health Club), 599 Paul Valley Road, Warrington, PA 18976

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☒ No ☐

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts

2. ☐ FELA

3. ☐ Jones Act-Personal Injury

4. ☐ Antitrust

5. ☐ Patent

6. ☐ Labor-Management Relations

7. ☐ Civil Rights

8. ☐ Habeas Corpus

9. ☐ Securities Act(s) Cases

10. ☐ Social Security Review Cases

11. ☐ All other Federal Question Cases

(Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts

2. ☐ Airplane Personal Injury

3. ☐ Assault, Defamation

4. ☐ Marine Personal Injury

5. ☐ Motor Vehicle Personal Injury

6. ☐ Other Personal Injury (Please specify)

7. ☐ Products Liability

8. ☐ Products Liability — Asbestos

9. ☒ All other Diversity Cases

(Please specify) _____

AUG 31 2012

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Norman W. Briggs, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 8/29/12

Attorney-at-Law

Norman W. Briggs

60940

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 8/29/12

Attorney-at-Law

Norman W. Briggs

60940

Attorney I.D.#

\$350.00
PBT

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FILED

AUG 31 2012

MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk

BORIS NIKOLAEVSKY,
237 Jacksonville Road, Apt. 83D
Hatboro, PA 19040

Plaintiff(s)

12 5022

vs.

LA FITNESS INTERNATIONAL, LLC,
d/b/a LA FITNESS SPORTS CLUB
2600 Michelson Drive, Suite 300
Irvine, CA 92612,

LA FITNESS SPORTS CLUB
2020 County Line Road
Huntingdon Valley, PA 19006

Defendant(s)

**TO: THE CLERK AND THE HONORABLE JUDGES OF THE UNITED
STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
PENNSYLVANIA**

Defendant, Fitness International, LLC (formerly known as "LA Fitness International, LLC") d/b/a LA Fitness Sports Club ("LA Fitness") hereby files the Notice of Removal of the above-captioned action to the United States District Court for the Eastern District of Pennsylvania, from the Court of Common Pleas, Philadelphia County, Pennsylvania, where the action is now pending, as provided by Title 28, United States Code, Section 1441, and hereby states the following:

1. Plaintiff, Boris Nikolaevsky, commenced this action on July 31, 2012, by filing a Complaint in the Court of Common Pleas of Philadelphia

County, Pennsylvania, captioned Boris Nikolaevsky v. LA Fitness International, LLC, et al, bearing docket number July Term 2012, No. 0704239 (“the State Court Action”). The State Court Action is now pending in that Court. (A copy of said State Court Action Complaint is attached as Exhibit “A.”)

2. Plaintiff served Defendant Fitness International, LLC (hereinafter “LA Fitness”) with the Complaint on or about August 10, 2012, by serving a copy of said Complaint at Fitness International, LLC’s corporate office, 3161 Michelson Drive, Suite 600, Irvine, CA 92612, via certified mail. Defendant was also served on or about August 10, 2012, via personal service at LA Fitness’ Huntingdon Valley location. (A copy of Service of Process Transmittals for both Defendants are attached as Exhibit “B.”)

3. This Notice of Removal is filed within 30 days of that date, as required by 28 U.S.C. §1446(b).

4. The State Court action is between citizens of different states and is a civil action over which the District Courts of the United States have original jurisdiction by virtue of diversity jurisdiction granted by 28 U.S.C. §1332.

5. Specifically, Plaintiff is a citizen of the Commonwealth of Pennsylvania.

6. Defendant Fitness International, LLC, d/b/a LA Fitness is a California Limited Liability Company, with its principal place of business in the State of California.

7. Prior to June 7, 2012, Fitness International, LLC was known as “LA Fitness International, LLC,” which was also a California Limited Liability Company. On June 7, 2012, LA Fitness International, LLC changed its name to Fitness International, LLC.

8. Other than the name change, the Defendant Fitness International, LLC remains the same entity as “LA Fitness International, LLC” and operates in the same manner as it did on the date of the alleged incident – August 1, 2010.

9. “LA Fitness Sports Club” is merely a trade name of Fitness International, LLC (formerly known as “LA Fitness International, LLC”).

10. None of the members of the Limited Liability Company known as “Fitness International, LLC” (or “LA Fitness International, LLC”) are citizens of the Commonwealth of Pennsylvania.

11. Upon information and belief, the matter in controversy claimed by the Plaintiff exceeds the sum of \$75,000.00, exclusive of interest and costs, computed on the following basis:

- (a) Plaintiff's Complaint alleges that on August 1, 2010, he was in the locker room of the LA Fitness in Huntingdon Valley, Pennsylvania, when the lights suddenly went out and LA Fitness employees locked the doors to the building.
- (b) Plaintiff alleges that as a result of the lights going out, he could not see where he was walking, and he slipped and fell, sustaining injury.
- (c) Plaintiff alleges that in addition to the primary diagnosis of lower back contusion/sprain, right shin contusion with subperiosteal hematoma, L4-L5 right paracentral disc herniation, mild bilateral L4-L5, that the Plaintiff sustained a severe and permanent shock to his nerves and his nervous system, which caused him and will continue to cause him great pain and agony;

- (d) Plaintiff alleges that the incident caused him great pain and humiliation.
- (e) Plaintiff's Complaint alleges that he has been compelled to spend "various sums of money" as well as incurring medical expenses;
- (f) Plaintiff's "Wherefore" clause also alleges punitive damages;
- (g) Plaintiff's Complaint alleges damages in excess of \$50,000.00, which is the Arbitration limit under Pennsylvania Rules of Civil Procedure and Philadelphia County Local Rules. Moreover, Pennsylvania procedure does permit an appeal from an Arbitration award which would result in a jury trial, thereby subjecting the Defendant to a verdict in excess of the \$75,000.00 jurisdictional limit.

12. This Notice of Removal is being filed in the United States District Court for the Eastern District of Pennsylvania, the District Court of the United States for the district within which the State Court action is pending, as required by 28 U.S.C. §1441(b) and §1446(a).

13. Upon filing the Notice of Removal, Defendant LA Fitness shall give written notice thereof to Plaintiff's counsel, Mark Yurovsky, Esquire, Esquire, and shall file copies of this Notice of Removal with the Prothonotary for the Court of Common Pleas of Philadelphia County, Pennsylvania, pursuant to 28 U.S.C. §1446(d).

14. By filing this Notice of Removal, Defendant LA Fitness does not waive any defenses available to it at law, in equity or otherwise.

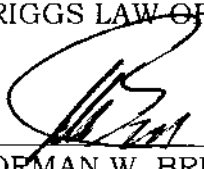
WHEREFORE, Defendant Fitness International, LLC d/b/a LA Fitness, respectfully requests that the action proceed in this Court as an action properly removed to it.

Respectfully submitted,

BRIGGS LAW OFFICE, LLC

Date: August 29, 2012

By:



NORMAN W. BRIGGS, ESQUIRE
400 Market Street, Suite 730
Philadelphia, PA 19106
(215) 925-4632
Attorneys for Defendant Fitness
International, LLC d/b/a LA Fitness
Sports Club
e-mail: nbriggs@thebriggslaw.com

EXHIBIT A

GREG PROSMUSHKIN, P.C.
Mark Yurovsky, Esquire
Jeffrey J. Goldin, Esquire
 Identification No.: 84904/312689
 9637 Bustleton Avenue
 Philadelphia, PA 19115
 (215) 673-7733

THIS IS A MAJOR MATTER
 AN ASSESSMENT OF DAMAGES
 HEARING IS REQUIRED



Attorneys for Plaintiff

BORIS NIKOLAEVSKY
 237 Jacksonville Road
 Apt. 83D
 Hatboro, PA 19040
 Plaintiff,

COURT OF COMMON PLEAS

PHILADELPHIA COUNTY

v.

LA FITNESS INTERNATIONAL, LLC
 d/b/a LA FITNESS SPORTS CLUB
 2600 Michelson Drive, Suite 300
 Irvine, CA 92612,

TERM, 2012

LA FITNESS SPORTS CLUB
 2020 County Line Road
 Huntingdon Valley, PA 19006

No.:

Defendant.

CIVIL ACTION
(PREMISES LIABILITY - 26020)

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Philadelphia Bar Association
 Lawyer Referral Service
 1101 Market Street, 11th Floor
 Philadelphia, Pennsylvania 19107
 Telephone: (215) 238-6328

AVISO

La han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta assentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Adem'as, la corte puede decidir a favor del demandante y requiere que usted cumpla con a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE, SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

Philadelphia Bar Association
 Lawyer Referral Service
 1101 Market Street, 11th floor
 Philadelphia, Pennsylvania, 19107
 Telefono: (215) 238-6328

GREG PROSMUSHKIN, P.C.
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Jeffrey J. Goldin, Esquire
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THIS IS A MAJOR MATTER
 AN ASSESSMENT OF DAMAGES
 HEARING IS REQUIRED

Attorneys for Plaintiff

BORIS NIKOLAEVSKY
 237 Jacksonville Road
 Apt. 83D
 Hatboro, PA 19040
 Plaintiff,

COURT OF COMMON PLEAS
 PHILADELPHIA COUNTY

v.

LA FITNESS INTERNATIONAL, LLC
 d/b/a LA FITNESS SPORTS CLUB
 2600 Michelson Drive, Suite 300
 Irvine, CA 92612,

TERM, 2012

LA FITNESS SPORTS CLUB
 2020 County Line Road
 Huntingdon Valley, PA 19006

No.:

Defendant.

COMPLAINT

1. The Plaintiff, BORIS NIKOLAEVSKY, is an adult individual residing at 2367 Jacksonville Road, Apt. 83D, Hatboro, PA 19040.
2. The Defendant, LA FITNESS INTERNATIONAL, LLC - D/B/A "LA FITNESS SPORTS CLUB", (hereinafter "LA Fitness") is a business entity with a main Corporate office located in 2600 Michelson Drive, Suite 300, Irvine CA 92612 and conducting business at 2020 County Line Road, Huntingdon Valley, PA 19006.
3. At all times material hereto, Defendant LA Fitness has a registered office in Philadelphia, Pennsylvania
3. At all times material hereto, Defendant, LA Fitness, conducts business, actively advertises and solicits patrons from Philadelphia County and surrounding counties.

4. At all times material hereto, Defendant, LA Fitness, owns or jointly owns, operates and maintains the LA Fitness Gym, a property located at 2020 County Line Road, Huntington Valley, PA 19006.

5. On or about August 1, 2010, at approximately 7:40 p.m., Plaintiff BORIS NIKOLAEVSKY was a business invitee, lawfully on Defendant's premises.

6. At the same time and place, Plaintiff BORIS NIKOLAEVSKY was using the showers at Defendant LA Fitness, when suddenly and without any warning to Plaintiff whatsoever, the lights illuminating the showers area, locker rooms and exercise areas were turned off.

7. Upon information and belief, at about the same time, employees of the Defendant LA Fitness had turned off all of the lights illuminating the showers area, locker rooms and the hallways leading to the gym's exit, exited the premises and locked the Plaintiff inside of the gym.

8. At all times material hereto Defendant's employees, agents and servants failed to ascertain whether the Plaintiff was still inside using the showers and/or locker rooms on the premises, prior to turning on all of the illumination, locking the exit doors and activating the alarm.

9. As a direct and proximate result of Defendants' aforementioned negligence, Plaintiff was forced to exit the showers and locker room area without any illumination, in a complete darkness.

10. As a direct and proximate result of Defendant LA Fitness turning off the lights, Plaintiff slipped and fell onto the wet floor and injured himself.

11. Plaintiff BORIS NIKOLAEVSKY slipped and fell on the wet floor that was at or about the shower area on Defendant's premises.

12. Furthermore, Plaintiff was forced to find his way out of the Defendant's premises in a complete darkness.

13. Furthermore, as a direct and proximate result of the Defendant's aforementioned negligence, Plaintiff was forced to leave Defendant's premises wearing his swimwear and leaving the rest of his clothing and belongings in Defendant's locker-room.

14. Moreover, as a direct and proximate result of the Defendant's aforementioned negligence, Plaintiff, in an attempt to exit Defendant's premises, set off the security alarm activated by Defendant, causing the arrival of the police.

15. All of the above caused Plaintiff a great deal of embarrassment and humiliation.

16. As a direct and proximate result of the Defendant's aforementioned negligence, Plaintiff was forced to come back to the Defendant's gym the following morning to retrieve his belongings, only to find some of Plaintiff's property, specifically, Plaintiff's watch missing.

17. Defendant was negligent in failing to properly ascertain the hazardous condition, and causing the lights to be turned off prior to ascertaining that the facility had no more patrons on the premises.

18. At all times material hereto, Defendant through its agents and employees, owe Plaintiff and other patrons duty of care.

19. Defendant failed in that duty, when Plaintiff slipped and fell on the wet floor in the shower area, due to Defendant's failure to ensure the facility was free of patrons.

20. Defendant and its employees failed to notify Plaintiff and other patrons prior to turning off the illumination lights, locking the doors and activating the alarm.

COUNT I – NEGLIGENCE

21. Plaintiff incorporates by reference allegations contained in paragraphs 1 through 20 as if fully set out herein.

22. The aforesaid occurrence and the injuries to Plaintiff resulting there from were caused solely, or in part, by the negligence of the Defendant LA FITNESS INTERNATIONAL, by its agents, servants, workmen and/or employees acting in the course and scope of employment for same, and consisted of the following:

- a) Causing and/or permitting the aforesaid area to become and remain unsafe lit;
- b) Failing to properly and adequately maintain the aforesaid area;
- c) Failing to properly and adequately inspect the aforesaid area to ascertain the existence of patrons on premises prior to shutting off the lights;
- d) Causing and/or permitting the unsafe conditions to become and remain in the aforesaid area;
- e) Failing to warn patrons and the general public of the turning off the lights, locking the doors and activating security alarm prior to doing so; and
- f) Failing to properly remove notify all patrons that lights would be turned off at a certain time.

23. Solely as a result of the aforesaid negligence, Plaintiff was caused to suffer various physical injuries, including, but not limited to: lower back contusion/sprain, right shin contusion with subperiosteal hematoma; L4-L5 right paracentral disc herniation; mild bilateral L4-L5 and L5 forminal stenosis; mild L4-L5 central canal stenosis.

24. Further, Plaintiff incurred a severe shock to his nerves and nervous system, great physical pain, and mental distress and anguish, all of which may continue for an indefinite time

in the future.

25. Further, Plaintiff has been compelled to expend various sums of money in attempting to alleviate and cure the aforesaid injuries, and was prevented from attending to his usual duties and believes that he may in the future be prevented from attending to his usual duties, all to his great financial loss.

26. As a direct and reasonable result of this aforementioned accident, Plaintiff has or may hereafter incur loss of personal property, other financial expenses or losses which do or may exceed an amount which he may otherwise be entitled to recover.

WHEREFORE, Plaintiff demands judgment against Defendant for an amount greater than Fifty Thousand Dollars (\$50,000.00), plus costs, delay damages, interest, and any other relief that this Court deems just.

COUNT II - NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

27. Plaintiff incorporates by reference allegations contained in paragraphs 1 through 26 as if fully set out herein.

28. As a direct and proximate result of defendants' aforesaid negligent conduct, plaintiffs have suffered extreme and debilitating mental anguish and emotional distress (and associated physical manifestations and injuries), and will continue to so suffer for an indefinite period of time in the future.

WHEREFORE, Plaintiff demands judgment against Defendant for an amount greater than Fifty Thousand Dollars (\$50,000.00), plus costs, delay damages, interest, and any other relief that this Court deems just.

COUNT III – FALSE IMPRISONMENT

29. Plaintiff incorporates by reference allegations contained in paragraphs 1 through 28 as if fully set out herein.

30. At all times material hereto, Plaintiff was a business invitee of Defendant's, lawfully on premises.

31. By turning the lights off, locking the premises and activating security alarm, Defendant and its employees unlawfully and falsely held and detained plaintiff against his will and consent, placed him under arrest, and falsely and maliciously detained and imprisoned Plaintiff on Defendant's premises.

32. As a result of the aforementioned acts by Defendant, Plaintiff was apprehended and questioned by the police all to Plaintiff's great embarrassment and humiliation.

WHEREFORE, Plaintiff demands judgment against Defendant for an amount greater than Fifty Thousand Dollars (\$50,000.00), plus costs, delay damages, interest, and any other relief that this Court deems just.

By: _____


MARK YUROVSKY, ESQUIRE
JEFFREY J. GOLDIN, ESQUIRE
Attorney for Plaintiff

VERIFICATION

I, Mark Yurovsky, Esquire, hereby state that I represent Plaintiff in the within action, and as such, am authorized to make this Verification on her behalf. I verify that the statements made in the foregoing Response to Defendant's Preliminary Objections are true and correct to the best of my knowledge, information and belief.

The undersigned understands that the statements made therein are subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



MARK YUROVSKY, ESQUIRE

Dated: 7/30/12

EXHIBIT B

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA
CIVIL TRIAL DIVISION

Boris Nikolaevsky

Plaintiff(s)

vs.

LA Fitness International, LLC

d/b/a LA Fitness Sports Club

Defendant(s)

Court Term July 2012
(month) (year)

& No. 004239



AFFIDAVIT OF SERVICE

I, Sherien Copes, hereby certify that on 08/10/2012

a copy of the following:

- ☐ Notice of Appeal
- ☒ Complaint / Statement of Claim
- ☐ Rule to File Complaint

was served upon the following:

- ☐ Plaintiff(s): _____
- ☒ Defendant(s): LA Fitness International
- ☐ Municipal Court Administration

by the following method:

- ☒ Certified Mail
- ☐ Regular Mail
- ☐ Personal Delivery

Sherien A. Copes
(Signature)
Sherien A. Copes
(Print Name)

P.003

No. 6674 P. 3

13:56

08/22/2012

Aug. 22. 2012 1:52PM

RX Date/Time

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>1. Article Addressed to:</p> <p>LA Fitness International, LLC D181A LA Fitness Sports Club 2600 Michelson Drive Suite 300 Irvine, CA 92612</p>		<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/></p> <p>X 300 Michelson Drive, Suite 300 <input type="checkbox"/> Addressee</p> <p>B. Restricted Delivery? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>C. Date of Delivery</p>	
<p>2. Article Number (Transfer from service label)</p> <p>7011 0110 0002 4044 5501</p>		<p>D. Is delivery restricted to addressee only? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>E. YES, restricted to addressee only: LA FITNESS INTERNATIONAL, LLC</p>	
<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>		<p>4. Restricted Delivery? (Enter Fee) <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>PS Form 3811, February 2004</p>		<p>Domestic Return Receipt</p>	

Case ID: 120704239

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA
CIVIL TRIAL DIVISION

Boris Nikolaevsky

Plaintiff(s)

vi.

LA Fitness Sports Club, et. al

Defendant(s)

Court Term July 2012
(month) (year)
& No. 004239



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by the following method:

- ☐ Certified Mail
- ☐ Regular Mail
- ☐ Personal Delivery

Sherien Copes
(Signature)
Sherien Copes
(Print Name)

12011095

 MONTGOMERY COUNTY SHERIFF'S DEPARTMENT ORDER FOR SERVICE													
(Please prepare a separate request for service form for each defendant to be served by the Sheriff)													
To: Sheriff Eileen Whalen Behr Montgomery County Courthouse Box 811 Harrisburg, Pennsylvania 17104-0811 Phone: 810-278-3331 Fax 810-278-3832													
Date: 8/01/12 Prothonotary No.: 1207-4239 Sheriff Cost: \$43.00													
Attorney's Or Plaintiff's Name and Address: Mark Yurovsky, Esq. Greg Prosmushkin, P.C. 9637 Bustleton Ave. Philadelphia, PA 19115 ATTY. ID# 84904 Telephone: 215-673-7733													
<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td style="width: 50%;"><input checked="" type="checkbox"/> Civil Action</td><td style="width: 50%;">Writ of Execution Levy</td></tr><tr><td><input type="checkbox"/> Confessed Judgment</td><td>Writ of Execution Attachment</td></tr><tr><td><input type="checkbox"/> Complaint in Ejectment</td><td>Writ of Execution Garnishee</td></tr><tr><td><input type="checkbox"/> Posting</td><td>Writ of Seizure</td></tr><tr><td><input type="checkbox"/> Writ of Possession</td><td>Impoundment</td></tr><tr><td><input type="checkbox"/> Other:</td><td>Court Order:</td></tr></table>		<input checked="" type="checkbox"/> Civil Action	Writ of Execution Levy	<input type="checkbox"/> Confessed Judgment	Writ of Execution Attachment	<input type="checkbox"/> Complaint in Ejectment	Writ of Execution Garnishee	<input type="checkbox"/> Posting	Writ of Seizure	<input type="checkbox"/> Writ of Possession	Impoundment	<input type="checkbox"/> Other:	Court Order:
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<input type="checkbox"/> Posting	Writ of Seizure												
<input type="checkbox"/> Writ of Possession	Impoundment												
<input type="checkbox"/> Other:	Court Order:												
Boris Nikolaevsky Vs. PLAINTIFF LA Fitness Sports Club, et. al. DEFENDANT Service Upon: LA Fitness Sports Club <small>LOCATION MUST HAVE VALID ADDRESS OR DIRECTIONS</small> 2020 County Line Road Huntingdon Valley, PA 19006	FOR SHERIFF USE ONLY PERSON SERVED: NICOLE B. BRIDGE RELATIONSHIP/POSITION: PIC PLACE OF SERVICE: AS GIVEN DATE OF SERVICE: 8-10-12 TIME OF SERVICE: 0830 NUMBER OF ATTEMPTS: 1 DEPUTY: BOLD DEPUTY: LAST DAY FOR SERVICE: 8-30-12												
SERVICE NOT MADE BECAUSE:													
<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td style="width: 25%;">DATE:</td><td style="width: 25%;">TIME:</td><td style="width: 25%;">DEPUTY:</td><td style="width: 25%;">DEPUTY:</td></tr><tr><td><input type="checkbox"/> NO SERVICE</td><td><input type="checkbox"/> BAD ADDRESS</td><td><input type="checkbox"/> UNKNOWN ADDRESS</td><td><input type="checkbox"/> NEED BETTER ADDRESS</td></tr><tr><td><input type="checkbox"/> MOVED</td><td><input type="checkbox"/> BUILDING VACANT</td><td><input type="checkbox"/> ADDRESS OUT OF COUNTY</td><td><input type="checkbox"/> OTHER</td></tr></table>		DATE:	TIME:	DEPUTY:	DEPUTY:	<input type="checkbox"/> NO SERVICE	<input type="checkbox"/> BAD ADDRESS	<input type="checkbox"/> UNKNOWN ADDRESS	<input type="checkbox"/> NEED BETTER ADDRESS	<input type="checkbox"/> MOVED	<input type="checkbox"/> BUILDING VACANT	<input type="checkbox"/> ADDRESS OUT OF COUNTY	<input type="checkbox"/> OTHER
DATE:	TIME:	DEPUTY:	DEPUTY:										
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POSSESSION TAKEN:													
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DATE:	TIME:	DEPUTY:	DEPUTY:										
ATTEMPTED SERVICE DATE & TIME													
SUPERVISOR APPROVAL													

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12 AUG 8 AM 10:37